

**ORDINANCE NO: 2007-07-23 "As Amended"**

**AN ORDINANCE ESTABLISHING NONSMOKING AREAS**

**WHEREAS**, numerous studies, including those conducted by the U. S. Surgeon General and the Center for Disease Control, have found that tobacco smoke is a major contributor to indoor pollution and that breathing secondhand smoke is a cause of disease including lung cancer in non-smokers; and

**WHEREAS**, people at special risk to secondhand smoke include children, the elderly, individuals with cardiovascular disease or impaired respiratory function including asthmatics and those with obstructive airway disease; and

**WHEREAS**, health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, and broncho spasm; and

**WHEREAS**, the City of Crown Point finds and declares that the purposes of this Ordinance are: 1) to protect the public health and welfare by prohibiting smoking in public places and places of employment; and 2) to guarantee the right of nonsmokers to breathe smoke-free air and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke in public places;

**NOW, THEREFORE BE IT ORDAINED**, by the Common Council of the City of Crown Point Indiana:

**Section 1. Definitions.**

As used in this Ordinance, the following terms have the following meanings unless otherwise designated:

- a. "Bar" means any establishment used primarily for the sale of alcoholic beverages for consumption by guests on the premises and which hold a beer-wine ("two-way"), or a beer-wine-liquor ("three-way") retailer's permit under the laws of Indiana including, but not limited to, taverns, nightclubs, and cocktail lounges.
- b. "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.

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- c. "Restaurant" means any establishment used primarily as, or held out to, the public as having food available for payment to be consumed on the premises, including coffee shops, cafeterias, cafes, luncheonettes, sandwich stands and soda fountains. The term "restaurant" shall include a bar area within the restaurant.
- d. "Private club" means a facility owned or operated by an association or corporation, which shall:
- (1) Not be operated for pecuniary gain; and
  - (2) Be registered under Indiana law; and
  - (3) Be determined by the Internal Revenue Service to be operating under not-for-profit status; and
  - (4) Be operated exclusively for the organization's purposes at all times; and
  - (5) Consist of a membership:
    - (i) Formed as a lodge, local chapter, or corresponding unit of a fraternal order recognized on a national basis; or
    - (ii) Comprised of persons who have served in the armed forces of the United States; or
    - (iii) Formed as a recognized, exclusive association of persons organized for a joint or common purpose for which application for membership, the payment of dues, and self governance by the membership are distinguishing characteristics, and, where entry into, and use of the facility is restricted to members and guests of members;
- e. "Theater" means any enclosed facility, open to the public, which is used primarily for or designed for the purpose of exhibiting any motion picture, stage presentation, musical recital, dance, lecture or other similar performance.
- f. "Smoke" or "smoking" means the act of lighting, carrying, inhaling from or leaving a lighted or smoldering cigar, cigarette, or pipe of any kind.
- g. "Public Place" means any enclosed area used by the general public including, but not limited to, retail stores and financial institutions, department stores, banks, laundromats, beauty and barber shops, retail food production and marketing establishments, regardless of whether a fee is charged for admission to the place.

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- h. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- i. "Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment including, but not limited to, work areas, private offices, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways.
- j. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental. The term does not include retail stores where food or beverages are sold for consumption on the premises or where an area has been set-aside on the premises for customers to consume food or beverages.
- k. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, emotional, or of other medical, physiological, or psychological conditions including, but not limited to, hospitals, rehabilitation hospitals or other clinics including weight control clinics, nursing homes, hospices, or homes for the aging or chronically ill.

### **Section 2. Application of Ordinance to City-Owned Facilities**

All enclosed facilities, including buildings and vehicles owned, leased, or operated by the City of Crown Point, shall be subject to the provisions of this Ordinance.

### **Section 3. Smoking prohibited in public places.**

Smoking shall be prohibited in all enclosed public places within the City of Crown Point including, but not limited to, the following places:

- a. Aquariums, galleries, libraries, and museums.
- b. Areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public including, but not limited to, professional offices, banks, laundromats, and hotels or motels (except as provided in §6(b))

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- c. Bed and breakfast facilities.
- d. Bingo facilities.
- e. Convention facilities.
- f. Elevators.
- g. Facilities primarily used for exhibiting a motion picture, stage presentation, lecture, musical recital, or other similar performance.
- h. Health care facilities.
- i. Licensed childcare and adult care facilities.
- j. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
- k. Polling places.
- l. Public transportation facilities including buses and taxicabs, under the authority of the City of Crown Point and ticketing, boarding, and waiting areas of public transit depots.
- m. Restaurants. Smoking is also prohibited in any outside eating or drinking areas provided by the restaurant to its patrons.
- n. Restrooms, lobbies, reception areas, hallways, and other common-use areas.
- o. Retail stores.
- p. Rooms, chambers, places of meeting or public assembly, including school buildings, under the control of an agency, board, commission, committee or council of the City of Crown Point.
- q. Schools.
- r. Service malls.

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- s. Shopping malls.
- t. Sports or entertainment arenas, including enclosed places in outdoor arenas or venues and in grandstands and other seating areas.

The owner, operator, manager, or other person having control of any area where smoking is prohibited by this Ordinance shall remove all ashtrays and other smoking paraphernalia from those areas.

### **Section 4. Prohibition of Smoking in Places of Employment.**

Smoking shall be prohibited in all enclosed areas within places of employment. This includes, but is not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

### **Section 5. Reasonable Distance.**

Smoking shall be prohibited within a reasonable distance from an enclosed area where smoking is prohibited by this Ordinance, but in no event any closer than fifteen (15) feet, so as to insure that tobacco smoke does not enter into establishments designated as smoke free under this Ordinance through entrances, windows, ventilation intakes or other means.

### **Section 6. Where Smoking is Not Regulated.**

The prohibitions of Section 3 shall not apply to the following:

- a. Private residences, except (1) when used as a licensed childcare, adult daycare, or health care facility, or (2) any business open to the public.
- b. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided however, that not more than thirty percent (30%) of the rooms rented to guests in a hotel or motel may be so designated. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms.
- c. Retail tobacco stores.

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- d. Outdoor areas of places of employment except for (1) outdoor seating areas for patrons in restaurants and (2) grandstands or other outside seating at public events.
- e. Bars.
- f. Private clubs.
- g. Any vehicle used by an employee while in the service of an employer when the vehicle is occupied only by that employee.

**Section 7. Declaration of Establishment as Nonsmoking.**

Notwithstanding any other provision of this Ordinance, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area, may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

**Section 8. Posting of Signs.**

Every public place and place of employment where smoking is permitted under Section 6 of this Ordinance shall have posted at every entrance a conspicuous sign clearly warning that smoking is permitted therein. The City shall make such signs available for such places.

Every public place and place of employment where smoking is prohibited by this Ordinance may post signs stating that smoking is not permitted therein. The City shall make such signs available for such places.

**Section 9. Enforcement.**

- a. This Ordinance shall be enforced by the City Police Department and the City Legal Department, or their designees.
- b. Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the City Police Department.
- c. An owner, manager, operator, or employee of an establishment regulated by this Ordinance shall inform persons violating this Article of the appropriate provisions thereof.

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### **Section 10. Violations and Penalties.**

- a. A person who smokes in an area where smoking is prohibited by the provisions of this Ordinance shall be punishable by a fine not exceeding fifty dollars (\$50).
- b. A person who owns, manages, operates, or otherwise controls, a public place or place of employment and who fails to comply with the provisions of this Ordinance shall be punishable by:
  - (1). A fine not to exceed one hundred dollars (\$100) for a first violation.
  - (2). A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year.
  - (3). A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.
- c. Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation.

### **Section 11. Non-retaliation.**

No person or employer shall discharge, refuse to hire or in any manner retaliate against, any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment by this Ordinance.

### **Section 12. Other applicable laws.**

This Ordinance shall not be interpreted to permit smoking where it is otherwise restricted by other applicable laws or to supersede any local laws which are more restrictive.

### **Section 13. Ordinance to be broadly interpreted.**

This Ordinance shall be construed broadly to effectuate the purposes described in the preamble of this Ordinance.



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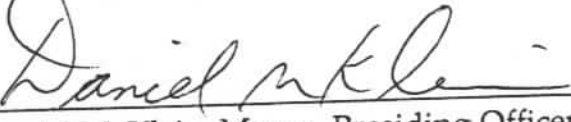
Section 14. Severability.

If any section or sentence or provision of this Ordinance, or the application thereof to any person or circumstances, shall be declared unconstitutional or invalid, such invalidity shall not effect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

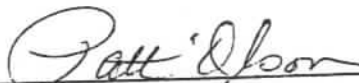
Section 15. Effective Date.

This Ordinance shall take effect on April 1, 2008.


PASSED and ADOPTED this 17th day of December, 2007.

  
Daniel M. Klein, Mayor, Presiding Officer

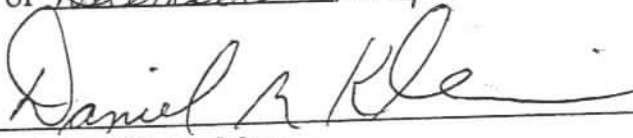
ATTEST:

  
Patti Olson, Clerk/Treasurer

Presented by me to Daniel M. Klein, Mayor of the City of Crown Point, Indiana this 17th day of December, 2007.

  
Patti Olson, Clerk/Treasurer

Approved, signed and returned by me to the Common Council of the City of Crown Point, Indiana this 17th day of December, 2007.

  
Daniel M. Klein, Mayor